

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, JULY 21, 2010 - 6:00 P.M. – ROCKVILLE CITY HALL.**

The meeting was called to order by Mayor Jeff Hagen. Roll Call was taken and the following members were found to be present: Mayor Hagen, Council Members: Bill Becker, John Koerber, Jerry Schmitt, Randy Volkmuth & Duane Willenbring. Absent: Sue Palmer.

Staff members present were: Administrator/Clerk Rena Weber & Engineer Scott Hedlund.

Others present were: Tудie Hermanutz, Lt. Jon Lentz, Dave Volkmuth, Aaron Cheeley, Toni Honer, Don Simon, Paul Betz, John Peck, Tom Nystrom, Vince Schaefer, Jeremy Gross, Mike Hofmann & Ev Balko.

**ADDITION TO THE AGENDA: Motion by Member Volkmuth, second by Member Koerber, to approve the addition to the agenda for discussion purposes.**

**AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring**  
**Motion passed on a 6 to 0 vote.**

**OPEN FORUM** – John Peck, 12299 Sauk River Road reported that he spends a lot of time at Eagle Park and sees it is getting a lot of use. He would be glad to give people a tour of the park.

Tom Nystrom, 10888 Grand Lake Road would like clarification on the mail boxes during construction. He would like to see them all legal. It was reported that this will be discussed at the pre-con meeting and a newsletter will be sent out to the affected owners.

Dom Simon – 600 Othmar Lane voiced concern about the amount of people visiting Eagle Park. He sees a lot of thistles going to seed and they need to be removed. He also thinks the county should take care of theirs.

**CONSENT AGENDA – Motion by Member Volkmuth, second by Member Willenbring, to approve the consent agenda as presented:**

- a) *Approve minutes of 06/16/10 & 06/23/10*
- b) *Approve Treasurer's Report of 07/21/10*
- c) *Approve List of Bills and Additions of 07/21/10*

<i>Accounts Payable CK # 012189 - 012282</i>	<i>\$673,034.25</i>
<i>Payroll CK#003770 - 003797</i>	<i>15,460.97</i>
<i>EFT CK# 000331 – 000346</i>	<i>10,593.59</i>
- d) *Approve Election Judges for 2010 elections*

**AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring**  
**Motion passed on a 6 to 0 vote.**

**BOARD/STAFF REPORT**

**POLICE DEPARTMENT** – Lt. Jon Lentz reported there were 37.5 contract hours with 6 citations.

Mayor Hagen asked what does a permanent speed reader cost. Lt. Lentz cited the danger of damage and what that could mean. He will check on the cost and report at the next meeting.

**PUBLIC WORKS** – Rick Hansen submitted the following for approval:

SEWER MAINTENANCE RFP – The following bids were received for Sewer (Grinder Station) repairs after hours as needed:

FIRM	BID
Delta Electric	\$55.00/hour
Klein Electric, Inc.	\$65.00/hr M-F 8 a.m. to 5 p.m., time & ½ after 5 pm & weekends
KZJ Electric LLC	\$75.00/hr plus materials – equipment @ \$30.00 per hour of use

Staff recommends the low bid of Delta Electric.

**Motion by Member Volkmuth, second by Member Schmitt, to approve the renewal of a contract with Delta Electric at \$55.00 per the bid and attached memorandum of agreement.**

**AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring**  
**Motion passed on a 6 to 0 vote.**

ELECTRIC SERVICE RFP – The following bids were received for Electrical sewer work as needed.

FIRM	BID
Birchwood Electric	M-F 7 a.m. to 5 p.m. \$75 for the 1 <sup>st</sup> hr and then \$60/hr after that M-F 5 p.m. to 7 a.m. \$90 for the 1 <sup>st</sup> hr and then \$75/hr after that Weekend Hourly rate-\$90 for the 1 <sup>st</sup> hr and then \$75/hr after that
Cold Spring Electric	M-F 7 a.m. to 4:30 p.m. - \$55/hr M-F after 4:30 p.m. - 78/hr Saturday 78/hr Sunday 98/hr Materials Cost plus 15%
Delta Electric	\$55/hour
Klein Electric	M-F 8 am to 5 pm \$65/hr, time and ½ after 5 p.m. and weekends
<b>Kramer Electric of Watkins</b>	<b>Service call – includes 1<sup>st</sup> hour \$55/hr</b> <b>Labor per hour - \$45</b>
KZJ Electric LLC	M-F 8 a.m. to 4 p.m. @ \$46.50 per man hour After hours and Weekends @ \$69.75 per man hour Plus Equip at \$30/hr of use (Bucket Truck, Trencher, Aerial Lifts)

Staff recommends the low bid of Kramer Electric of Watkins.

A question came up as to when the first hour of service call kicks in and can it be set so that travel time does not exceed 15 minutes. It was determined to table action until this question could be answered.

**PLANNING COMMISSION** – Chair Toni Honer was present to report on the following:

JEREMY GROSS - Variance from river/creek setback – Toni reported the Planning Commission held a public hearing on 7/13/10 to consider the request of Jeremiah T. Gross for a variance from Setback Requirements. The address of the property is: 330 Mill Street with a legal description of: Section Nine (09), Township One Hundred Twenty-three (123), Range Twenty-Nine (29), to-wit: N87' of S107' of Block 34, Lying E of Mill Street, Block 34, Townsite of Rockville

The request is to construct a 22' x 30' unattached garage in the R-1 District which is located within 300' of a creek/river and also in the Zone A Floodplain

Variance from the following will be discussed:

1. Setback from creek/river tributary 100' (actual 42')

**STAFF REPORT:**

Variance(s) Requested:

1. Variance to construct an unattached 22' x 30' unattached garage and to locate it 42' from the Mill Creek where 100' is required.

Construction Requests:

1. Construct a 660 square foot building to match the house.

Relevant Information:

1. R-1 – Residential District.
2. Existing 16' x 12' garage/apron and dog kennel is to be removed.
3. Access to new structure would occur via the church parking lot. Written approval is required from the church and was provided.

4. No certificate of survey was required as the applicant supplied information from Stearns County as to the size being approximately 10,900 on the west side of the creek and 8,280 on the east side of the creek. Total 19,180 square feet  
 19,180 X 25% = 4795 square feet  
 19,180 x 30% = 5754 square feet  
 Jeremy will be at 2604 with the new building.

**Recommendations:**

1. Maintain existing drainage patterns over, under, and across their property.
  2. No additional driveways will be allowed.
  3. Proper temporary and permanent erosion control measures (BMP's) shall be implemented during and after construction to minimize sediment leaving the site; this would include proper installation of silt fence or bio-rolls on the down gradient side(s) of any excavations or earth disturbing activities, and subsequent re-vegetation of the disturbed areas soon after work is completed.
  4. Approve with these conditions.
  5. **Gets permission in writing from the Parish Council to access his property from the church parking lot.**
  6. **That the egress/ingress be recorded to their warranty deed.**
- The Planning Commission recommends granting of the variance pending the conditions as stated.

**Member Koerber introduced the following resolution and moved for its adoption:  
 RESOLUTION NO. 2010-14  
 A RESOLUTION APPROVING VARIANCE IN THE R-1 DISTRICT.**

**WHEREAS, A request has been received from Jeremiah T. Gross for a variance from creek/river tributary setback requirements to construct a 22' x 30' unattached garage in the R-1 District, and;**

**WHEREAS, said structure will be placed 42' from the Mill Creek, and;**

**WHEREAS, Proper notification and publication had been given, and;**

**WHEREAS, all persons were given an opportunity to be heard on said request.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ROCKVILLE, STEARNS COUNTY, MINNESOTA:**

1. **Said request is hereby approved to construct the 22' x 30' unattached garage that will be located 42' from the Mill Creek.**
2. **Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.**
3. **That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.**
4. **The siding and shingles shall match the main structure.**
5. **The drainage and mitigation plan as presented will be constructed and maintained.**
6. **The property owner is to provide written approval of the access through Mary of Immaculate Conception Church parking lot from the Parish Council which shall be recorded on the deed.**

**The motion for the foregoing resolution was duly seconded by Member Volkmuth with the following vote being taken:**

**AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring  
 Motion passed on a 6 to 0 vote.**

**SPORE/MOLITOR QUALIFIED MINOR SUBDIVISION** – Rena Weber reported that this transaction would require two certificate of compliance – one between the Molitor's and Spore's and then one for the actual split with the new legal description. This would require a signed quit claim deed from the Molitor's to the Spore's before the certificate would be recorded.

**STAFF REPORT:**

RE: ADMINISTRATIVE PLAT, QUALIFIED MINOR SUBDIVISION & SITE PLAN APPROVAL  
 Parcel I.D. No. 76-41618.0400 – Section 11, Township 123, Range 029  
 76-41618.0600 - Section 11, Township 123, Range 029

Owner: Thomas & Joseph Molitor Partnership  
 Leif & Julie Spore  
 Property Address: 9054 County Road 47, St. Cloud, MN 56301

**REQUEST**

1. Leif & Julie Spore have a 24.1 x 24.2 shed located on the Thomas & Joseph Molitor Partnership property. They need to purchase and quit claim this property from the Molitor's first.
2. Then Leif & Julie Spore are requesting approval to split approximately 20 acres from the approximate 22 acre site thereby establishing a new property line.

**RELEVANT INFORMATION**

1. Property is zoned R-1 and a portion (Molitor's) is in the A-40.
2. Property is 22.0 acres approximately.
3. The owner(s) are proposing to sell 20 acres south of the home site for building purposes.
4. Leif & Julie Spore currently live on Tract B.  
 The Planning Commission granted approval.

R-10 MEETING – Toni reported there was a good turnout for the meeting. She would like to form a sub-committee work on it as a resident would like to see something in the next six months. Toni is looking for 2-3 volunteers, 1-2 from the Planning Commission and 2 from the City Council  
 Mayor Hagen suggested the Planning Commission set a goal of getting this done.  
 Volunteers from the City Council will be Duane Willenbring & John Koerber.

**OLD BUSINESS**

**ORDINANCE NO. 2010-65 – REDUCING COUNCIL SIZE** – Rena Weber reported that as part of the official process to reduce the size of the council a public hearing adopting an ordinance to allow that needs to be passed. *(A copy is hereby attached and marked Exhibit A).*

***Motion by Member Volkmuth, second by Mayor Hagen, to schedule a public hearing for 8/18/10 at 6:30 p.m. to consider adoption of Ordinance No. 2010-65 which will determine how the council could be reduced should the voters approve the question at the November 2<sup>nd</sup> Election.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring  
 Motion passed on a 6 to 0 vote.***

**NEW BUSINESS**

**FOWLER ROAD PUBLIC** – Mayor Hagen announced that council consideration would now be given to declaring Fowler Road a public road.

***Member Becker introduced the following resolution and moved for its adoption:  
 RESOLUTION NO. 2010-13***

**A RESOLUTION ADOPTING FINDINGS OF FACT DECLARING FOWLER ROAD A PUBLIC ROAD PURSUANT TO MINN.STAT. § 160.05**

**WHEREAS**, Minnesota Statute 160.05 provides for public dedication of a road after six years of continuous maintenance by the City;

**WHEREAS**, the Rockville City Council has considered officially declaring Fowler Road a public road and hereby makes the following:

**FINDINGS OF FACT**

1. The City of Rockville, since its consolidation on June 1, 2002, has maintained Fowler Road at the expense of the City.
2. Some of the City's maintenance is described in the Affidavit of Rick Hansen in **Exhibit A1**.
3. Prior to incorporation of the City of Rockville, Rockville Township maintained Fowler Road as described in the Affidavit of Brian Herberg in **Exhibit B**.
4. Maintenance of Fowler Road by the City includes snow removal, grading, and addition of gravel.
5. The ditches and shoulders of Fowler Road have been used by the City continuously for storage of snow removed from the road each winter.
6. The ditches and shoulders of Fowler Road have been used by the City continuously to support and maintain the traveled portion of the road.
7. Fowler Road is currently used by the public and has been used by the public for at least as long as Rockville has been a City.
8. The City of Rockville has used, kept in repair, and worked Fowler Road for at least six continuous years.
9. Fowler Road traverses the properties described in **Exhibit C** and depicted on **Exhibit D** to this Resolution.
10. The affected properties adjacent to Fowler Road are:
  - a. Charles and Polly Grell, 21096 Fowler Road (PID 76.41647.0400);
  - b. Scott and Susan Palmer, 21108 Fowler Road (PID 76.41647.0700); and
  - c. The Elizabeth J. Klein Revocable Trust, 21107 Fowler Road (PID 76.41648.0400).

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:**

1. The above Findings of Fact are adopted.
2. Pursuant to Minnesota Statute 160.05 and common law dedication, Fowler Road is deemed dedicated to the public.
3. Fowler Road is officially declared a public road of the City of Rockville.
4. The width of Fowler Road includes the road surface, shoulders and ditches as used and maintained by the City.
5. The City Council authorizes the Mayor and City Administrator-Clerk to execute and record a Notice of Interest on each affected property.

6. The City Council directs the City Administrator-Clerk to take all necessary action to effect the proper process to officially make Fowler Road a public road.

***The motion for the foregoing resolution was duly seconded by Member Volkmuth.***

Member Willenbring stated that he is still against this. If we make it public then we have vote to tar it. The Council determined that they will make a decision tonight.

***Ayes: Becker, Hagen, Schmitt, & Volkmuth***

***Nays: Koerber & Willenbring***

***Motion passed on a 4 to 2 vote.***

**TRANSFER OF LIQUOR LICENSE-** Paul Betz was present request approval to transfer the liquor licenses from Darin Ennen DBA Stoney's Bar to his name effective 8/1/10 (actual 8/6/10).

***Motion by Member Volkmuth, second by Member Willenbring, to approve the transfer of liquor licenses from Darin Ennen to Paul Betz DBA Stoney's Bar effective 8/1/10 pending background check and proper insurance certificate listing the city as additionally insured.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring***

***Motion passed on a 6 to 0 vote.***

**GRAND LAKE ROAD/FOWLER ROAD BID RESULTS –** City Engineer Scott Hedlund was present to report on the bid results for the road reconstruction project.

Bids were received, opened and tabulated according to law, and the following bids were received complying with the advertisement:

<b>COMPANY</b>	<b>BASE BID</b>	<b>ALTERNATE BID</b>	<b>TOTAL</b>
Knife River Corp	205127.70	12482.84	217610.54
Kraemer Trucking	228909.05	13761.80	242670.85
Hardrives, Inc.	228424.56	15238.07	243662.63
J R Ferche, Inc.	234409.10	16730.00	251139.10

SEH recommended approval of the low bid of Knife River.

Questions came up regarding the original estimate. Scott provided information (Exhibit A from 4/28/2010 showing low to high quotes showing \$240,844.50 for Grand Lake Road and \$14,829.25 for Fowler Road.

Other questions arose regarding the deferred assessment approach and justification for such. None of the affected properties from Fowler Road were present for the meeting.

***Motion by Member Becker, second by Member Koerber, to table action on awarding the bids until 7/29/10 after the 4:30 Public Works meeting and Finance Committee meeting.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring***

***Motion passed on a 6 to 0 vote.***

Scott Hedlund indicated he will provide sample resolutions on 7/29/10 regarding deferment.

#### **COMMITTEE REPORTS**

**MAYOR** - Mayor Hagen had nothing to report.

**FINANCE COMMITTEE** – Member Volkmuth reported that the Finance Committee met prior to the meeting tonight and approved the Reconciliation/Investment reports as presented.

**RTCB** – Member Willenbring and Rena Weber reported on the Rocori Trail Construction Board business. Rena reported the RTCB applied for a one year extension of the SAFETEA LU grant. Member Willenbring reported that each of the 3 cities approved the \$60,000 contribution to the fund.

**EDA** – Rena Weber reported that Stonecrafter’s received a notice from MN DEED that they did not meet the job creation and retention goals as part of their BSA (business subsidy agreement).

Rena Weber explained that each of our JOBZ recipients has to file certain documents with DEED (State of MN) each year indicating how many people they employed as a result of the designation and also how much they are paid per hour. Stonecrafter’s failed to make the required number of five new employees being paid \$14.81 (including benefits). They have hired 2.75 equivalent persons. DEED is offering businesses that achieved at least 51% of the goal a one time opportunity to amend their business subsidy agreement. The BSA will be shortened by 45% or 35 months until 12/5/2011. The EDA recommends moving this forward and schedule a public hearing to consider an amendment.

***Motion by Member Volkmuth, second by Member Becker, to schedule a public hearing for 8/18/10 at 6:45 p.m. to consider an amendment to the BSA for Stonecrafter’s.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring***

***Motion passed on a 6 to 0 vote.***

#### **ADMINISTRATOR’S REPORT**

**WATER RATE INCREASE-** Rena Weber reported that technically the water rates are set to increase on 6/1/10 pending review of the need. Rena would to review the information with the finance committee first, but that a public hearing should be held to consider the increase.

***Motion by Member Volkmuth, second by Member Becker, to schedule a public hearing for 8/18/10 at 7:00 p.m. to consider an amendment to the water rate by increasing the rate to \$3.32.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring***

***Motion passed on a 6 to 0 vote.***

#### **ADDITIONS TO THE AGENDA**

Jeremy Danielson – 25814 Lake Road would like approval to hold a family/neighbor party on 8/21/10 and have a DJ until 11:00 p.m.

Member Volkmuth voiced concern that it will affect the neighbors so Mr. Danielson should let the neighbor know of what he is doing.

***Motion by Member Becker, second by Member Willenbring, to approve the request to extend the DJ hours until 11 p.m. on 8/21/10 as requested with the understanding the requester notifies the neighbors of his intentions.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring***

***Motion passed on a 6 to 0 vote.***

Approve American Family Insurance temporary use of Freedom Auto building to conduct storm damage assessments.

***Motion by Member Becker, second by Member Willenbring, to approve the use of Jeff’s Freedom Auto building to handle such claim services as a result of the recent hail storms in the area on 7/17/10.***

***AYES: Becker, Hagen, Koerber, Schmitt, Volkmuth & Willenbring***

***Motion passed on a 6 to 0 vote.***

#### **OPEN FORUM**

Vince Schaefer – 541 Caroline Lane was present to report that the Rocori Trail MOA with the county needs something in writing from BNSF that they will sell the property to the RTCB. Further the County will need to establish ownership if part of the trail.

It was reported that Adam Ripple is working on the paper work required by the county now.

***ADJOURNMENT – Motion by Member Becker, second by Member Koerber, to adjourn the meeting at 6:58 p.m. Motion carried unanimously.***

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**VERENA M. WEBER-CMC  
ADMINISTRATOR/CLERK**

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**JEFF HAGEN  
MAYOR**

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